

**MERCURY COMMUNICATIONS, L.C.**

**Interest:** Not indicated.

**Combinatorial Bidding:**

- Seek combinatorial bids with Designated Entity. (1)

**Treatment of Designated Entities:**

- Exclude A/B cellular carriers and ESMRs with more than 4% of nations POPS from definition of designated entities. (1)
- Small business should be defined by the formula used by the SBA, but may be financially encouraged to form a consortium of like companies to attain critical mass. (1)
- Include the use of investment tax credits for designated entities. (1)
- Supports liberal installment plans for designated entities. However, if a designated entity license is sold to a non-Designated Entity, include provision for prompt payment of balance plus interest. (1)
- Combination of 10 MHz blocks, but only with 49% ownership by Designated Entity. (2)
- Set aside license for Designated Entity companies to include the C Block or combinations of D, E and F Blocks. (2)

**Application Processing Requirements:**

- Long Form 401 should be completed after winning bid, not as a prerequisite to bidding. (2)

**Payment Methods:**

- There should be no minimum bid requirements. (2)
- FCC should open an interest bearing account for upfront payments.

**MINORITY BUSINESS ENTERPRISE LEGAL  
DEFENSE AND EDUCATION FUND, INC.**

**Interest:** Non-profit organization that acts as a national advocate and legal representative for the minority business community on issues that affect minority business.

**Treatment of Designated Entities:**

- Submits report entitled "Discriminatory Contracting Practices in the Telecommunications Industry," which demonstrates that providing minority opportunity is a substantial governmental interest. The study revealed the industry used minority companies as fronts to generate volume sales in order to meet MWBE participation goals, controlled profit margins of these minority companies, and sold products and services to minority companies at different prices to different purchasers of the same products. (2) There was systemic refusal to offer minority companies joint venture opportunities. There were also restrictions on high technology transfers to and from minority companies. Large corporate entities limited minority companies to non-core business and low tech products and services since the AT&T divestitures. (4)

## MOTOROLA INC.

**Interest:** Equipment manufacturer.

**Applicability of Competitive Bidding:**

- The FCC should continue to use regulatory solutions to avoid mutual exclusivity. (1)
- The advent of competitive bidding as a means of resolving mutually exclusive licensing situations does not abrogate the FCC's public interest mandate, grant the FCC carte blanche to sell any spectrum to the highest bidder, or grant an auction winner a blank check to use the spectrum any way it sees fit. (2)

**Payment Methods:**

- Allowing creditors to hold limited security interests in radio licenses obtained through competitive bidding may be appropriate and publicly beneficial. In the event of foreclosure, creditors should be subject to performance and due diligence requirements similar to the obligations undertaken by the licensee itself. (9-10, 14)

**Safeguards:**

- Rules requiring expeditious build out of licensed systems are appropriate and necessary. (3)

**Specific Services:**

- Competitive bidding is inappropriate for mobile satellite service Big LEO applications. (5)
- The FCC should protect the interests of private radio users. (4)
  - Since private radio users do not offer commercial service to subscribers, private radio users are unlikely to be able to compete with commercial mobile services in auctions for spectrum. (4)
  - Supports measures like the FCC's proposal to exempt 800 MHz General Category channels and channels obtained through intercategory sharing from competitive bidding measures. (4)

**MOTOROLA SATELLITE COMMUNICATIONS, INC.**

**Interest:** Motorola is one of six applicants proposing to offer mobile satellite communications services in the RDSS/MSS bands.

**Specific Services:**

- Competitive bidding should not be used with regard to licensing MSS/RDSS ("Big LEO") in the 1610-16626.5 MHz and 2483.5-2500 MHz bands. (3 - 5)
  - The FCC has erroneously assumed that the pending applications are mutually exclusive; they are not.
  - The Budget Act requires the FCC to consider alternatives to auctions in order to avoid mutual exclusivity in application and licensing proceedings, such as the Big LEO proceedings.
  - Many of the objectives outlined in the new section 309(j)(3) will not be promoted if competitive bidding were used to license Big LEO systems, such as the development and rapid deployment of new technologies, products and services without administrative or judicial delays, etc.
  - Competitive bidding would in all likelihood lead to other countries following the lead of the US and auctioning their MSS spectrum.
  - If competitive bidding were used to license Big LEO systems, it would be virtually impossible to determine the value of a US license at the time an auction was conducted due to the global nature of the services and the extensive international coordination which must take place on a bilateral basis. Big Leo systems, unlike terrestrial PCS systems, will require licenses in most foreign countries and will be subject to many coordination agreements before service can be provided internationally.

**GEORGE E. MURRAY**

**Interest: Black entrepreneur with telecommunications experience**

**Treatment of Designated Entities:**

- The FCC has ample authority to accord competitive bidding preferences to minority applicants. The Supreme Court has previously held that racial preferences may be used to achieve the goal of equality of economic opportunity. Competitive bidding preferences provide an appropriate means to accomplish this objective (5-8).
- Minority businesses are deserving of particularly favorable treatment as they face unusually severe hurdles and are the most underrepresented of the designated entities in the telecommunications industry. Suggests that FCC require that 20% of all broadband PCS licenses be awarded to minority-controlled entities (8-10).
- The FCC should foster strategic alliances between established communications companies and minority businesses in non-set-aside blocks, such as (10-14):
  - An exemption from any proposed spectrum caps in a market where a joint venture exists with a minority-owned enterprise;
  - A system of financial preferences for non-set-aside spectrum in which applicants would receive a bidding credit that would increase proportionately with the extent of minority participation; and
  - Procedural benefits to applicants with substantial minority participation, such as expedited processing of applications submitted by entities with substantial minority participation.
- The FCC should adopt a broad range of preference mechanisms, including spectrum set-asides, preferred payment terms, tax certificates, distress sale policies, and relaxed financial showings for minorities (14).
- In order to ensure minority participation in an applicant is not a sham, applicants seeking a minority preference should be required to file with their application copies of agreements establishing the relationships between the parties (15).
- The FCC should not ban license transfers from a designated entity to a non-designated entity, but

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instead require the filing of an anti-trafficking showing (15-16).

- The FCC proposal for financial disincentives to such transfers would be difficult to administer (16).

**MW TV, INC.**

**Interest:** MDS and ITFS licensee, with pending MMDS applications.

**Specific Services:**

- It is not in the public interest to apply new competitive bidding rules to the pending applications for MDS and MMDS authorizations as they would frustrate a coordinated and cohesive program to assemble frequencies for a successful wireless cable operation. (pp. 1-2)
- Supports the FCC's proposal to process MDS and MMDS applications filed before July 26, 1993 under the prior law and regulations as it may be unlawful to subject such applications to competitive bidding. (p. 2)

**RICHARD S. MYERS**

**Interest:** Not indicated

**Bidding Method:**

- Sealed bidding should be the FCC's basic auction method as it is simple to administer; it is less subject to manipulation by bidders; and it provides more opportunity for small competitors. (pp. 1-3)

**Sequence of Bidding:**

- The largest MTA should be auctioned first, then all of the BTAs within that MTA across all frequency blocks, proceeding to the next largest MTA and all component BTA licenses across all frequency blocks, etc. (pp. 9-10)

**Combinatorial Bidding:**

- Combinatorial bidding should not be permitted on the two set-aside blocks for designated entities. (p. 9)

**Payment Methods:**

- The easiest method of alternative payments for designated entities would be installment payments specified over a certain term (i.e., 11 percent of an entity's winning bid per year for ten years). (pp. 5-6)
- Because a designated entity would not be required to pay a winning bid in a lump sum, it should be allowed to: (1) rely upon the same financial resources to cover the costs specified in multiple long-form applications for different licenses; and (2) bid for those licenses. (pp. 3-5)

**Treatment of Designated Entities:**

- Regardless of the definition of small business, the rules should provide that a consortium of small businesses does not maintain that special status if the net worth of its members together exceeds the defined limit. (p. 6)
- The FCC should allow only the designated entities that filed applications to form consortia until 5 business days prior to an auction. (pp. 6-7)

**Safeguards:**

- The FCC should disallow any discussion, collaboration or sharing of information or strategies among potential bidders, including potential consortia members, that

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involves: (1) the value of any license subject to auctions; (2) the amount that should be bid for any license; or (3) bidding strategy. (p. 7) This prohibition would not apply once a consortium has been formed and the FCC notified. (p. 7)

- The prohibition on collusion should be self-enforcing, with penalties for willful violation ranging from the applicant's disqualification from the auction process for a particular license to disqualification from the entire auction process for the service involved. (pp. 7-8)

**Application Processing Requirements:**

- If a consortium is not eligible to be a designated entity, the FCC should accept amendments to the consortium's application. (pp. 8-9)

**MCCAW CELLULAR COMMUNICATIONS, INC.**

**Interest:** Cellular and paging carrier.

**Applicability of Competitive Bidding:**

- Agrees with proposed general parameters for determining when competitive bidding should be used; however, "modifications" should be defined to include installation of additional transmitters for blanket licensed services (e.g., cellular) and intermediate links should not be subject to bidding since they generally lack mutual exclusivity and would create perverse incentives if auctioned, are analogous to POFS licenses used for internal purposes, and would delay important services to the public. (23-29)

**Bidding Methods:**

- Favors open, oral bidding as the best means of awarding licenses to parties that value them most highly, facilitating the efficient aggregation of licenses, and maximizing the goals of speed and fairness. (5-6)

**Sequence of Bidding:**

- Supports using narrowband PCS and cellular unserved areas as testbeds for auction procedures before auctioning broadband PCS authorizations. (14-15)
- Supports auctioning PCS spectrum individually, block by block, beginning with the most populated market and proceeding to the least populated market in order to promote rational aggregation strategies. (15-16)

**Combinatorial Bidding:**

- Opposes combinatorial bidding, and variants thereof, as being fundamentally incompatible with open, oral auctions; creating complexity, legal uncertainty, and delay; adversely affecting the vitality and fairness of oral auctions by virtually mandating joining a large bidding group; raising questions regarding proper timing of bidding procedures; and allowing "back door" national licensing in disregard of determinations made in the PCS proceeding. (7-14)

**Payment Methods:**

- Minimum bids are unnecessary. (17)
- Upfront payments should be constructed to evidence a potential participant's seriousness without creating undue hardship or preventing a qualified applicant from bidding. (17)

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- Payment schedules with some flexibility to accommodate the needs of a wide variety of potential licensees should be created, and could include extended--but reasonable--periods of time to make deposit and bid balance payments. (17-18)

**Treatment of Designated Entities:**

- Supports clear and strictly enforced (e.g., dismissal for violations) definitions for designated entities that require actual operational control and rules ensuring that consortia cannot be used to evade such standards. (18-19, 21)
- The proposed definition of "rural telephone company" should be modified to eliminate any company that, in conjunction with its parent and subsidiaries, has more than 150,000 access lines as of the date of the bid, and rural telco preferences should only be granted for markets that overlap the exchange area of the telco for a significant portion of the franchised service area. (19-21)

**Safeguards:**

- Any "unjust enrichment" safeguards should only be applied to licenses obtained by designated entities. (22)

**Application Processing Requirements:**

- Bidders should be required to disclose their ownership to ensure the legitimacy of auction participants and discourage speculation. (18)

**Specific Services:**

- Private radio licenses involving mutual exclusivity and for-profit service to subscribers should be auctioned. (29-30)
- Cellular unserved area applications should be auctioned. (30-31)

**MCI TELECOMMUNICATIONS CORPORATION**

**Interest:** Long distance telephone service provider

**Applicability of Competitive Bidding:**

- The proposal to use competitive bidding for licensing of intermediate microwave links should not be adopted because these applications are "prior coordinated" so that mutual exclusivity rarely arises. (22)

**Bidding Methods:**

- Sealed second bid auctions should be used to award national combinatorial PCS licenses as they will ensure that full value is obtained and they are resistant to collusion. (8-9)
- The FCC should permit post-application, pre-auction settlements no later than 48 hours before the proposed auction. (14)

**Combinatorial Bidding:**

- Agrees that combinatorial bidding should be allowed but believes it should be limited geographically to only a nationwide combination of the MTA-based licenses and a nationwide combination of three of the 10 MHz bands. (7)
- By permitting national combination bidding, the FCC can obtain some of the public interest benefits of a national consortium. (8)
- Recommends the following sequence for combinatorial bidding: (1) combination (national) sealed bids accepted for band A; (2) oral auctions conducted for band A MTA licenses; (3) national sealed bids accepted for band B; (4) oral auctions conducted for band B MTA licenses; (5) all sealed bids that have not been withdrawn are opened; (6) if combination bid wins either band, that entity may withdraw any MTA winning bids in the other band; and (7) MTAs from which bids are withdrawn are reaucted or awarded to the second highest bidder. (10-11)
- The FCC should then accept sealed bids for permissible groupings in bands C through G, and then conduct oral auctions for those bands. (12)
- No additional round(s) of bidding should be permitted by the oral bid winners after the oral and sealed group bidding. (12)

**Payment Methods:**

- Two cents per MHz per pop is a reasonable basis on which to determine an upfront payment. (13)
- The advance payment should be non-refundable for the auction winners but, at least for grouped nationwide or MTA licenses, no additional deposit should be required of the winners. (13)
- 45 days following grant of a winner's application is a reasonable period of time to make a lump sum payment to the FCC of an amount equal to the difference between the winning bid and the upfront payment. (p. 13) Both the group and individual winner should be required to make the payment or forfeit the license, except for designated entities who should be permitted to pay in installments. (13)
- The use of tax certificates and installment payments appear to be reasonable methods of fostering participation by designated entities. (14)
- If designated entities own 20 percent of a national consortium that is a winning bidder, the consortium should be required to make a lump sum payment of 80 percent of the amount otherwise due, with the remaining 20 percent paid in installments. (14-15)

**Treatment of Designated Entities:**

- If the FCC establishes set-asides for any designated entity, the FCC should explicitly state that such provisions are severable from the other competitive bidding rules. (15)

**Safeguards:**

- Any anticollusion rules should not interfere with the ability of groups of firms to submit combination bids for licenses. (16)
- Potential bidders should not agree on a maximum amount for bids, nor should they agree not to bid against each other in particular territories. (16)
- The FCC should rely on existing antitrust rules to prevent collusion. (16-17)

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- Supports imposition of build-out requirements to ensure warehousing will be deterred. (20)
- Opposes restrictions on transferability of licenses won at auction except for designated entities, who should have a minimum period of three years of commercial operation before transfer to another designated entity is permitted. (20)

#### **Application Processing Requirements:**

- Long form applications should not be required until after an auction winner is selected. (18)
- Each applicant for an initial license in the 2 GHz PCS bands should be required to file an FCC Form 401 (with the appropriate filing fee) and establish its qualification to hold a radio license. (18)
- The financial qualification standard for cellular RSA applications should not be applied to PCS -- 2 cents per MHz per pop pre-bid deposit plus a requirement that the winner pay the remainder of the bid within 45 days is sufficient. (19)

#### **Specific Services:**

- The FCC should exclude dominant cellular providers and their affiliates from bidding on one entire band of the 30 MHz MTA licenses, whether or not the particular MTAs in that band represent an in-region MTA. (4-6)
- Cellular carriers should not be permitted to circumvent restrictions on eligibility by representing that they will divest offending cellular interests should they win an auction for a license for which they are ineligible to bid. (20)
- The FCC should clarify and strictly apply its proposed attribution rules. (21) Supports application of cellular's real party in interest and affiliate interest rules to PCS. (21-22)
- The renewal expectancy accruing to PCS auction winners should be higher than that granted to cellular incumbents. (23)

**NEBTel, INC.**

**Interest:** Rural telephone exchange company.

**Treatment of Designated Entities:**

- The proposed definition of a rural telephone company (i.e., carriers eligible for exemption from the telephone/cable television cross-ownership restrictions) is inadequate to meet the goal of Congress to promote economic opportunity for rural telcos. (1)
- A more workable definition of rural telco would be based on the number of access lines owned or operated by the telco, and 50,000 access lines would be an appropriate threshold. (2,3)
- Minorities or women groups should be permitted to bid on PCS spectrum blocks reserved for preferred bidders only if they can properly be classified as small businesses. (3)
- Designated entities should be permitted to bid for any PCS service area that is located within the major trading area (MTA) in which its business is located. (4)
- The Commission should limit eligibility for the PCS C & D blocks to minority and women controlled businesses that existed prior to August 10, 1993. (4)

**MILLIN PUBLICATIONS, INC.**

**Interest:** Publisher of specialized information services for business, legal and human resource professionals

**Specific Services:**

- Challenges tentative conclusion that PCS spectrum will involve subscription services and thus be appropriate for competitive bidding (1-16).
- Classifying PCS as a subscription service presents a narrow and very limited economic model for PCS. PCS offers the opportunity to create a nationwide data and voice-based service that will provide consumers with universal free access (like broadcast services) (3-4).
- Millin hopes to apply for and construct a PCS network that will allow purchasers of goods to pay for items electronically using handheld Personal Digital Assistants. The costs of the service will be paid by advertising.
- There is not enough empirical data to make a finding that PCS will be a subscription service (4-5).
- A subscription service finding will substantially diminish the public interest benefits of PCS in that such a finding will result in substantial subscription charges to consumers and eliminate incentives to develop the many innovative promotional and marketing applications that could be available if the service is made universally free to all consumers on a non-subscription basis (5-8).
- Classification of PCS as non-subscription-based will more fully promote Congressional objectives by (8-12):
  - Speeding development and deployment of new technologies and services without administrative or judicial delays (9);
  - Suggests selection of PCS licensee based upon a paper review of applications to determine proposal that (1) is more substantially able to be accomplished in terms of financing, (2) is technically superior, and (3) offers more services and benefits to the public (10).

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- Avoiding excessive concentration of licenses and by disseminating licenses among a wide variety of applicants (only if PCS is non-subscription-based will small concerns be able to compete) (11-12);
  - Recovering for the public the value of the spectrum (over the long term, the value of free service would outweigh funds collected by auction) (12); and
  - Promoting efficient and intensive use of the spectrum (as such applications can better change in response to market conditions) (12).
- It is likely that PCS will develop to be non-subscription-based. Given the finite pool of subscribers and the fact that it is highly unlikely that consumers will purchase multiple subscriptions, PCS can only carry one or two subscription-based licensees. All other licensees will have to develop applications that are either niche-based or that will employ another economic model (13-14).
  - Suggests that FCC could preliminarily review applications for each channel block. If all applications proposed subscription-based services, competitive bidding should be used. If an applicant proposes a viable non-subscription means of compensation, however, the public interest in such a service is so substantial that the FCC should award the license to that applicant (14-15).

**MINNESOTA EQUAL ACCESS NETWORK SERVICES, INC.**

**Interest:** Provider of centralized equal access and other telecommunications services to rural communities.

**Bidding Methods:**

- Supports the use of oral bidding as it is the simplest and most direct bidding method. (p. 2)

**Sequence of Bidding:**

- All the BTAs within a given block should be auctioned at the same time and the BTAs auctioned prior to the MTAs. (p. 2)

**Payment Methods:**

- Bid deposits for designated entities should be equal to one-half of the amount required for other bidders. (p. 2)
- A designated entity should be permitted to elect to pay either: (1) a twenty percent downpayment (less the amount of the bid deposit) with annual principal and interest payments over the initial ten year license term and interest at the prime rate; or (2) a twenty percent downpayment (less the amount of the bid deposit) and annual payments of a royalty fee set as a percentage of the gross revenue of the license over the initial term of the license, with the balance of the bid, if any, due upon the expiration of the license. (p. 2)
- With either of these options, if the licensee sells the license within the initial term, the balance of the bid should become due and payable immediately unless the license is transferred to another qualified designated entity. (p. 2)

**Treatment of Designated Entities:**

- Rural telcos should be defined as local exchange companies with fewer than 50,000 access lines. Entities controlled by rural telcos for which the majority of interests are owned by rural telcos should be eligible as designated entities to bid for set-aside licenses. (p. 2)
- Rural telcos should be able to bid for set-aside licenses in any area as service areas will rarely directly coincide with BTA or MTA boundaries. (p. 2)

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- The licenses for Block C (20 MHz) should be set aside for rural telephone companies by BTAs. (p. 2)

**MINORITY PCS COALITION**

**Interest:** A coalition of minority-owned, non-broadcast communications businesses and entrepreneurs.

**Sequence of Bidding:**

- Agrees with the proposal to define most broadband PCS markets by BTAs and to auction PCS spectrum by frequency blocks rather than by BTA. When auctioning BTA markets, the Commission should begin with the largest MTA and the largest BTA within that MTA and continue in descending order of BTAs in that MTA. (7)
- Minorities should have their own separate block of spectrum (Block C) distinct from the blocks for rural telcos, women or small businesses. (7) Specific terms of this block are in chart on page 8.
- The minority set-aside block should be auctioned at oral bidding for individual BTA markets and by sealed bids for MTAs (combinatorial bidding). There should be no nationwide bidding for the set-aside. (8)
- Specifically, the Commission should accept combinatorial bids for the entire group of set-aside licenses within an MTA via sealed bids accompanied by upfront deposits. Two days later, oral auctions would be held for the individual minority block licenses in each BTA in that MTA. Upon conclusion of the oral bidding, all individual BTA winnings for that block in the MTA would be totalled, the sealed bids opened and the winning combinatorial bid chosen. If the winning sealed MTA bid is higher than the aggregate of the individual winning BTA bids, the license would be awarded to the sealed bid MTA winner. If the sum of the individual BTA bids is higher, licenses would be awarded to each individual oral auction bid winner. (8-9)

**Payment Methods:**

- Agrees with the proposal to require a lump sum payment for all bidders except DEs, which should be allowed to use installment payment plans, with an upfront deposit of \$10 million for combinatorial bidding, and the lesser of one cent per pop per MHz or \$500,000.00 for individual markets, with a special procedure for applicants applying for more than one market. (9-10)
- Should allow upfront payment in either cash or form of letter of credit to afford applicants flexibility. (10-11)
- DE installment plan should be based on payments over ten years, with the winning bidder paying 5% of the balance of the bid price (less the amount of the deposit) at the end of

the third year following issuance, 10% of the balance at the end of each of years four through nine, and the remaining 35% at the end of year ten. (10)

- In case of a default on installment payments, the Commission should notify the lender and provide it an opportunity to cure. If the lender chooses not to do so, the license is forfeited. This will benefit the Commission by avoiding the need for new auctions, and will provide a greater incentive to lenders by protecting their investment in DEs. (12)
- Proposed monetary forfeiture on minority auction winners in the event of disqualification is too high and should be reduced to 1% of the upfront deposit.. (12-13)
- Tax certificate provisions applicable to other communications services should be applied to PCS as a mechanism to attract investors. Additionally, any current user of spectrum reallocated to PCS that migrates to another band should receive a tax certificate if that user has any taxable gain. (13)

#### **Treatment of Designated Entities:**

- The Commission should establish very narrow qualifications for small businesses and entities owned by minorities and women seeking preferential treatment as DEs. (3)
- "Small businesses" should be defined based on both the net worth/income size standard proposed in the SBAC's Report, and the control/equity structure of the entity. With regard to the latter, the chain of control should be traceable to one or more individuals, and the individuals exercising voting control should also hold 100% of the beneficial ownership. If the chain is traceable to another entity, this principal itself must qualify as a small business and must hold 100% of the beneficial ownership. If the chain is traceable to two or more entities, each must qualify and the aggregate net worth and income size of these entities must not exceed the SBAC standards, and the controlling principals must hold 100% of the beneficial ownership. (3).
- There should be no dichotomy, with the exception of publicly-traded companies, between the voting control and beneficial ownership of businesses owned by minorities or women. Thus, except for public companies, the minority or female principals must hold a minimum of 51% of the voting control and a minimum of 51% of the beneficial ownership of the entity. (3-4)

- "Publicly traded" should also be defined narrowly and should be limited to companies listed on the New York or American Stock Exchanges, or NASDAQ. (4 n.2)
- The Commission should allow eligible DEs to combine into consortia to bid as long as each member is separately qualified as a DE in the involved preference group. (5)
- Preferential treatment of DEs is constitutionally permitted and directed by the Budget Act. Similarly, the proposals for channel set-asides, tax certificates, and preferential payment terms are rationally related to the legitimate objectives of Congress and are therefore permissible. (5-6)

**Safeguards:**

- The Commission should permit some limited transfers. To prevent unjust enrichment, the agency should restrict, for 1-2 years of license grant, transfers of 51% or more from one set-aside eligible entity to another. Could also restrict receipt of compensation to an amount equal to the transferor's actual expenses in acquiring the licenses and construction expenditures. The Commission should permit a DE to transfer freely up to 49% of the license or the equity in itself to non-eligibles for the purpose of raising capital. Tax certificate provisions should apply if the transfer is from one minority DE to another. (14)

**Other:**

- Suggests that the Commission permit DEs that are auction winners to aggregate up to 60 MHz of spectrum in a market through joint ventures or similar mechanisms with auction winners for other frequency blocks in the market. This would ensure the competitive viability of DEs vis-a-vis larger PCS operators in the same market. (14-15)

# **NATIONAL ASSOCIATION OF BLACK OWNED BROADCASTERS, INC.**

**Interest:** Trade association representing African American-owned broadcast stations and cable systems

## **Bidding Methods:**

- Supports oral bidding as this affords bidders the most information and will allow unsuccessful bidders to redeploy their resources immediately for subsequent bidding opportunities (6-7).

## **Sequence of Bidding:**

- Only a limited number of licenses should be auctioned at any given bidding session (3-4).
- The FCC should auction MTAs in size order beginning with the largest. Once the FCC begins auctioning an MTA, it should auction all MTA and BTA frequencies within that MTA (7-8).

## **Combinatorial Bidding:**

- Opposes regional and national bidding (4-5).
- Consortia should not be allowed to bid for several MTAs or BTAs at one time (5).

## **Treatment of Designated Entities:**

- Congress and the courts have recognized the importance of promoting minority ownership of communications facilities for first amendment reasons and to remedy past discrimination (2).
- The Commission should adopt policies that encourage large companies to bid jointly with minority-controlled companies for the MTA and BTA licenses (5-6).
- The following minority enhancement factors should be applied to every license auctioned (not just to one block) (9-13):
  - Minority groups should have a 25% bonus added to their bids.
  - After an initial 10% deposit, winning minority bidders should be able to pay the balance of their bid, interest free, over a 7 year period beginning on the date the system receives its first revenues from customers.

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- Investors should be able to obtain a tax certificate for the sale of a less than controlling interest in a minority-owned and controlled entity.
- The Commission must liberalize its policies with respect to financial certification to permit minority applicants to submit "letters of interest" (including such letters from SBICs and SSBICs), rather than commitment letters.
- The FCC should not assume a joint undertaking by a large non-minority entity and a smaller minority-owned entity is a front unless the larger entity enters into the venture with a predetermined ability to (1) buy out the smaller entity's interest, (2) within less than three years, (3) at a price substantially lower than the value that should be attributed to the minority owner's interest (13-14).
- The Commission should accord preferences among the designated groups that take account of the unique history of discrimination against minorities. Specifically, the tax certificate program for minority ownership and the 25% bonus proposal should not be extended to any other designated entity (14-15).
- Sees no basis for according rural telephone companies any preferences outside of rural areas (15).

**NATIONAL ASSOCIATION OF BUSINESS AND EDUCATIONAL RADIO, INC.**

**Interest:** Trade association of business radio users and FCC certified frequency coordinator in the private land mobile services.

**Applicability of Competitive Bidding:**

- The auction legislation is a mechanism for issuing licenses and not for allocating spectrum. (4)
- The FCC must not create mutually exclusive areas of licensing that do not presently exist. (7)

**Bidding Methods:**

- Supports oral bidding. (6)
- Recognizing that collusive bidding would undermine public confidence, the FCC should allow participants to gather information about how other bidders value spectrum in order to participate in a reasonable business fashion. (6,7)

**Treatment of Designated Entities:**

- Must recognize the needs of small businesses to compete against larger bidding participants. An example of such aid would allow financial lenders to hold security interests in licenses, thereby encouraging the availability of capital. (11,12)

**Specific Services:**

- 800 MHz private land mobile applications, including SMRs, are processed on a first-come, first-served basis and do not result in mutually exclusive situations. The FCC must not institute a freeze on accepting such applications in order artificially to create mutually exclusive situations. (8)
- Auctions should be used if the FCC adopts new rules for wide area SMRs that result in the release of newly created spectrum blocks that are made available in a mutually exclusive manner. (8)
- It is unclear whether mutually exclusive situations will arise in the 220 MHz band when the FCC again makes this spectrum available. The FCC must first accept applications to determine whether mutual exclusivity exists and then move toward auctions. (9)